

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CESAR IXPERTAY LOPEZ, ) CASE NO. C08-0188-RSM  
Petitioner, )  
v. ) REPORT AND RECOMMENDATION  
A. NEIL CLARK, )  
Respondent. )

11 Petitioner Cesar Ixpertay Lopez is a native and citizen of Guatemala. On January 30,  
12 2008, he filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, requesting that  
13 the Court order the U.S. Immigration and Customs Enforcement (“ICE”) to either “release [him]  
14 on parole or to deport him with no further delay.” (Dkt. 1). Petitioner later submitted an AR-11  
15 Alien’s Change of Address Card, indicating that he was no longer detained at the Northwest  
16 Detention Center in Tacoma, Washington, and that his present address was in Quetzaltenango,  
17 Guatemala. (Dkt. 4). Accordingly, the undersigned Magistrate Judge issued a Report and  
18 Recommendation (“R&R”) recommending that the habeas petition be dismissed as moot because  
19 petitioner had obtained the relief sought in the habeas petition, and thus there was no longer any  
20 case or controversy between the parties. (Dkt. 7). However, petitioner subsequently filed  
21 pleadings with this Court on March 3 and 19, 2008, indicating that he was still in custody at the  
22 Northwest Detention Center. (Dkts. 9 and 10). Petitioner further explained that he “gave a

01 change of address in advance just in case the immigration honors my request and effectuates my  
02 removal." (Dkt. 9).

03 Accordingly, on March 27, 2008, the Honorable Ricardo S. Martinez issued an order  
04 declining to adopt the R&R, and re-referring the matter back to the undersigned Magistrate Judge  
05 for further consideration of the habeas petition. (Dkt. 11). On April 24, 2008, however,  
06 respondent filed a Return and Motion to Dismiss the Petition as Moot and a Declaration,  
07 indicating that on April 11, 2008, petitioner was removed to Guatemala, and is no longer detained  
08 by ICE. (Dkts. 16 and 17). Respondent asserts that because petitioner is no longer detained by  
09 ICE, petitioner's habeas petition should be dismissed as moot. (Dkt. 16 at 2).

10 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of  
11 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9<sup>th</sup> Cir. 2002).  
12 "When a controversy no longer exists, the case is moot." *Id.* Because petitioner is no longer  
13 detained by ICE, the Court finds that petitioner's habeas petition should be dismissed as moot.  
14 See, e.g., *Cooney v. Edwards*, 971 F.2d 345, 346 (9<sup>th</sup> Cir. 1992) (holding that the District Court  
15 properly dismissed plaintiff's claims that had become either moot or unripe). Accordingly, I  
16 recommend that this action be dismissed. A proposed Order accompanies this Report and  
17 Recommendation.

18 DATED this 25th day of April, 2008.

19  
20   
21 Mary Alice Theiler  
22 United States Magistrate Judge